Cour
Pénale
Internationale

International
Criminal
Court

Original: **English**

No.**: ICC-01/21**
Date: **7 March 2025**

PRE-TRIAL CHAMBER I

Before: **Judge Iulia Antoanella Motoc**, **Presiding Judge**
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

Secret

Warrant of Arrest for Mr Rodrigo Roa Duterte

Warrant of Arrest to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:

☒ The Office of the Prosecutor

☐ Counsel for the Defence

☐ Legal Representatives of the Victims

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants (Participation/Reparation)

☐ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

☐ Amicus Curiae

REGISTRY

Registrar
Mr Osvaldo Zavala Giler

☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and Reparations Section

☐ Other

PRE-TRIAL CHAMBER I (the 'Chamber') of the International Criminal Court (the 'Court') issues this warrant of arrest pursuant to article 58(1) of the Rome Statute (the 'Statute') for

Rodrigo Roa Duterte

a national of the Republic of the Philippines, born on 28 March 1945 in Maasin, Southern Leyte, the Republic of the Philippines.[1]

I. Procedural history

1. On 19 April 2021, the Presidency assigned the situation in the Republic of the Philippines (the 'Philippines') to the Chamber.[2]

2. On 15 September 2021, the Chamber, in a previous composition, authorised the commencement of an investigation into the Situation in the Philippines (the 'Philippines Situation') in relation to crimes within the jurisdiction of the Court, allegedly committed on the territory of the Philippines between 1 November 2011 and 16 March 2019 in the context of the 'war on drugs' campaign.[3]

3. On 24 June 2022, following a deferral request from the Philippines[4] and a temporary suspension of the investigative activities,[5] the Prosecution requested the Chamber to authorise the resumption of the investigation into the Philippines Situation.[6]

4. On 26 January 2023, the Chamber authorised the Prosecutor to resume the investigation into the Philippines Situation.[7] On 18 July 2023, the Appeals Chamber confirmed this decision.[8]

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[1] Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE, 10 February 2025, ICC-01/21-80-US-Exp (with under seal, *ex parte*, only available to the Prosecution Annexes A-E), para. 7; PHL-OTP-00000269; PHL-OTP-00000388 at 0012-0013.
[2] Decision on the assignment of the situation in the Republic of the Philippines, ICC-01/21-1.
[3] Decision on the Prosecutor's request for authorisation of an investigation pursuant to Article 15(3) of the Statute, ICC-01/21-12 ('Article 15 Decision').
[4] Annex A to the Notification of the Republic of the Philippines' deferral request under article 18(2), ICC-01/21-14-AnxA.
[5] Notification of the Republic of the Philippines' deferral request under article 18(2), ICC-01/21-14.
[6] Prosecution's request to resume the investigation into the situation in the Philippines pursuant to article 18(2), ICC-01/21-46.
[7] Authorisation pursuant to article 18(2) of the Statute to resume the investigation, ICC-01-21-56-Red ('Article 18(2) Decision').
[8] Judgment on the appeal of the Republic of the Philippines against Pre-Trial Chamber I's "Authorisation pursuant to article 18(2) of the Statute to resume the investigation", ICC-01/21-77 ('Article 18(2) Appeal Judgment').

5. On 10 February 2025, the Prosecution, under seal and *ex parte*, only available to the Prosecution, applied for a warrant of arrest (the 'Application')[9] for Rodrigo Roa Duterte ('Mr Duterte'), as an alleged indirect co-perpetrator pursuant to article 25(3)(a) of the Statute for the following crimes against humanity within the Court's jurisdiction, committed in the Philippines between 1 November 2011 and 16 March 2019 (the 'Relevant Period'):

(i) murder as a crime against humanity (article 7(1)(a) of the Statute);
(ii) torture as a crime against humanity (article 7(1)(f) of the Statute); and
(iii) rape as a crime against humanity (article 7(1)(g) of the Statute).[10]

II. Jurisdiction and admissibility

6. Pursuant to the first sentence of article 19(1) of the Statute, the Chamber finds, on the basis of the materials submitted and without prejudice to future determinations on the matter, that the case against Mr Duterte falls within the jurisdiction of the Court.[11] The Chamber is satisfied that the incidents described in the Application amount to crimes against humanity that have allegedly been committed by Mr Duterte, a national of the Philippines. As to the temporal jurisdiction, the Chamber recalls, that '[w]hile the Philippines' withdrawal from the Statute took effect on 17 March 2019, the Court retains jurisdiction with respect to alleged crimes that occurred on the territory of the Philippines while it was a State Party, from 1 November 2011 up to and including 16 March 2019.'[12] It further recalls that '[t]he Court's jurisdiction and mandate is exercised in accordance with the provisions of the Statute, an international treaty to which the Philippines was a party at the time of the alleged crimes for which the investigation was authorised. By ratifying the Statute, the Philippines explicitly accepted the jurisdiction of the Court, within the limits mandated by the treaty […]. These provisions and the ensuing obligations remain applicable, notwithstanding the Philippines['] withdrawal from the Statute.'[13]

7. As the alleged conduct has taken place between 1 November 2011 and 16 March 2019 on the territory of the Philippines, it falls within the Court's jurisdiction.

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[9] Prosecution's urgent application under article 58 for a warrant of arrest against Rodrigo Roa DUTERTE, ICC-01/21-80-US-Exp (with under seal, *ex parte*, only available to the Prosecution Annexes A-E).
[10] Application, paras 2, 17, 77.
[11] See Article 18(2) Decision; Article 18(2) Appeal Judgment.
[12] Article 15 Decision, para. 111.
[13] Article 18(2) Decision, para. 26, referring to article 127(2) of the Statute. See also Article 18(2) Appeal Judgment, paras 48-58.

8. At this stage, the Chamber declines to use its discretionary *proprio motu* power pursuant to the second sentence of article 19(1) of the Statute to determine the admissibility of the case against Mr Duterte as there is no ostensible cause or self-evident factor which impels it to do so.[14]

III. Requirements of article 58(1) of the Statute

9. Article 58(1) of the Statute provides that the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest for a person if it is satisfied that there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court, and the arrest of the person appears necessary. The findings of facts, as set out below, are therefore made based on this evidentiary standard.

A. Whether there are reasonable grounds to believe Mr Duterte has committed a crime within the jurisdiction of the Court (article 58(1)(a) of the Statute)

1. Contextual elements

10. On the basis of the material provided, and considering that the Davao Death Squad ('DDS') members and the Philippines' law enforcement personnel[15] targeted a very large number of persons allegedly involved in criminal activities,[16] in particular drug-related ones,[17] the Chamber finds that there was a course of conduct involving the commission of multiple acts against the civilian population on the territory of the Philippines.[18] Moreover, these violent acts were initially committed by the DDS and subsequently by different governmental authorities and organs, pursuant to a policy aiming at putting an end to the criminality in the Philippines by all means, including killings of alleged criminals.[19]

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[14] See Article 18(2) Appeal Judgment.
[15] PHL-OTP-0004-0006, paras 93, 137, 156-160, 255-258; PHL-OTP-0002-0626, paras 99-102, 117-122, 228-229, 319, 321, 557, 597; PHL-OTP-00000541 at 0004-0007, 0015-0016; PHL-OTP-00000547 at 0003-0005; PHL-OTP-00000549 at 0003-0006; PHL-OTP-00015509 at 0004; PHL-OTP-00015507 at 0005-0006. See also PHL-OTP-0003-2538 at 2538-2545.
[16] PHL-OTP-0001-2639 at 2652-2653; PHL-OTP-0001-2682 at 2690; PHL-OTP-0001-2605 at 2616; PHL-OTP-00000147 at 0030; PHL-OTP-00000547 at 0016. See also PHL-OTP-0002-0626, paras 306, 308, 310; PHL-OTP-00015507 at 0005-0006.
[17] PHL-OTP-0001-2639 at 2652-2653; PHL-OTP-0001-2682 at 2690; PHL-OTP-0001-2605 at 2616; PHL-OTP-00015501 at 0002; PHL-OTP-00000547 at 0016; PHL-OTP-0004-0006, paras 259-265; PHL-OTP-00015390 at 0010-0011; PHL-OTP-00000147 at 0030. See also PHL-OTP-0002-0626, paras 306, 308, 310.
[18] See Section III.A.2. ('The alleged crimes') below.
[19] PHL-OTP-0003-3291 at 3292; PHL-OTP-0003-3800 (translation PHL-OTP-00015493 at 0004); PHL-OTP-0003-3224 (translation PHL-OTP-00015479 at 0016); PHL-OTP-0003-3261 (translation PHL-OTP-00015492 at

11. In light of the foregoing, the Chamber is satisfied that an 'attack' directed at a civilian population pursuant to an organisational policy during the period Mr Duterte had been the head of the DDS and a State policy during the period he had been the President of the Philippines, within the meaning of article 7(1) of the Statute, took place. Moreover, there are reasonable grounds to believe that this attack was both widespread and systematic: the attack took place over a period of several years, and thousands people appear to have been killed,[20] a sample of which is analysed in the section below.[21] The material before the Chamber shows that the killings shared common features, such as the location and *modus operandi*,[22] including the method of killing,[23] the profiles of victims[24] and the profiles of perpetrators.[25]

12. The Chamber notes that the Prosecution alleges that some acts amounting to crimes against humanity of torture and rape, under articles 7(1)(f) and 7(1)(g) of the Statute, 'were committed as part of a widespread and systematic attack directed against the civilian population' and 'pursuant to a State policy to attack alleged criminals'.[26] However, although the information provided allows the Chamber to conclude that the material elements of the alleged crimes are fulfilled, the Chamber considers that the existence of a nexus between the alleged acts and the attack, as defined above, is insufficiently shown. Therefore, the allegations under Counts 2 and 3 cannot be retained for the purpose of the present warrant of arrest.

13. Considering Mr Duterte's role and position during the Relevant Period as the Mayor of Davao City and the President of the Philippines and the fact that he was the head of the DDS,[27] the Chamber finds that he necessarily knew about the operations and their scope. The material

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0006). See also PHL-OTP-0004-0006, paras 259-265; PHL-OTP-00015390 at 0010-0011; PHL-OTP-00000354 (transcript PHL-OTP-00001679, translation PHL-OTP-00001682); PHL-OTP-00000271 (translation PHL-OTP-00000558 at 0008).

[20] PHL-OTP-0003-3355 at 3379; PHL-OTP-0003-2538 at 2538. See also PHL-OTP-0003-1004 at 1013. See also PHL-OTP-00017684 at 0006-0023.

[21] See Section III.A.2. ('The alleged crimes') below.

[22] PHL-OTP-00000541 at 0004; PHL-OTP-00000549 at 0012-0016; PHL-OTP-00000550 at 0002-0004; PHL-OTP-00015509 at 0004; PHL-OTP-00000549 at 0003-0005; PHL-OTP-0002-0626, paras 100, 228-229; PHL-OTP-00000541 at 0004-0006; PHL-OTP-0004-0006, paras 255-258; PHL-OTP-0002-0626, paras 557, 597.

[23] PHL-OTP-00000541 at 0004; PHL-OTP-0004-0006, paras 93, 194, 329; PHL-OTP-0002-0626, paras 99, 321; PHL-OTP-00000541 at 0004-0006; PHL-OTP-0004-0006, paras 135-143, 156-160; PHL-OTP-0002-0626, paras 117-122; PHL-OTP-0002-0626, paras 102, 117, 288, 319; PHL-OTP-0004-0006, para. 137.

[24] PHL-OTP-0001-2605 at 2616; PHL-OTP-0001-2639 at 2652-2653; PHL-OTP-0001-2682 at 2690; PHL-OTP-00000547 at 0016; PHL-OTP-00015507 at 0005-0008; PHL-OTP-00015527 at 0007-0008; PHL-OTP-00000147 at 0030. See also PHL-OTP-0004-0006 at 0059-0060; PHL-OTP-0002-0626, paras 306, 308, 310, 368-369.

[25] PHL-OTP-00000547 at 0003-0005; PHL-OTP-00015506 at 0004; PHL-OTP-00015507 at 0005-0006. See also PHL-OTP-0003-2538 at 2538-2545.

[26] Application, paras 9-10, 74-76. As regards Count 2 (torture), the Chamber notes that this finding relates only to alleged Incident 6; for the relevant Chamber's findings on Incident 1, see para. 14, footnote 32 below.

[27] See PHL-OTP-0006-9247 at 9247-9248; PHL-OTP-0001-2605 at 2618-2620; PHL-OTP-00015507 at 0005-0006; PHL-OTP-00015501 at 0001.

shows, as also illustrated below,[28] that by having defined the scope and purpose of the operations, Mr Duterte intended the conduct to be part of the widespread and systematic attack directed against all persons designated as involved in criminal activities, especially drug-related ones.[29]

2. The alleged crimes

14. Based on the material submitted by the Prosecution, which relates to a non-exhaustive list of incidents,[30] the Chamber finds reasonable grounds to believe that, during the Relevant Period, murders of persons allegedly involved in various forms of criminal activities, including drug-related ones,[31] were committed as follows:

a. at least 19 persons, allegedly drug pushers or thieves, were killed by members of the DDS in various locations in or around Davao City;[32]

b. at least 24 persons, allegedly criminals – such as drug pushers and thieves – or drug users, were killed by or under the supervision of members of the Philippines' law

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[28] See Section III.A.3. ('Mr Duterte's individual criminal responsibility') below.
[29] See PHL-OTP-0003-3291 at 3292; PHL-OTP-0003-3800 (translation PHL-OTP-00015493 at 0004); PHL-OTP-0003-3261 (translation PHL-OTP-00015492 at 0006, 0016); PHL-OTP-0003-3800 (translation PHL-OTP-00015493 at 0004. See also PHL-OTP-0003-3283 (translation PHL-OTP-00001127 at 0005); PHL-OTP-00000267 (translation PHL-OTP-00000336 at 0010).
[30] Application, paras 68-76.
[31] See Section III.A.1. ('Contextual elements') above.
[32] Based on the list provided by the Prosecution under Counts 1 and 3 in the Application, the Chamber has retained as proven these incidents based on the following supporting material: (i) Incident 1: PHL-OTP-00015405 at 0009-0010; PHL-OTP-00015433; PHL-OTP-00015434 at 0002-0005; PHL-OTP-00015435 at 0002-0005; PHL-OTP-00015436 at 0002-0006; (ii) Incident 2: PHL-OTP-00015447 at 0007-0011; PHL-OTP-00015448 at 0002-0008; PHL-OTP-00015452 at 0002-0004; (iii) Incident 3: PHL-OTP-0001-2682; PHL-OTP-0001-2691 at 2692-2698. See also PHL-OTP-00000324; PHL-OTP-00000321; (iv) Incident 4: PHL-OTP-00001717 at 0002-0003; PHL-OTP-00001718 at 0002-0015; PHL-OTP-00001719 at 0002-0004. See also PHL-OTP-00000422; (v) Incident 5: PHL-OTP-00001724 at 0002-0010; PHL-OTP-00001725 at 0004, 0009-0011. See also PHL-OTP-00000423; (vi) Incident 7: PHL-OTP-00001732 at 0003-0009; PHL-OTP-00001733 at 0002-0004. See also PHL-OTP-00000426; PHL-OTP-00001483; (vii) Incident 8: PHL-OTP-00001739 at 0002-0004; PHL-OTP-00001741 at 0002-0013. See also PHL-OTP-00000522; PHL-OTP-00001484; PHL-OTP-00000520; (viii) Incident 9: PHL-OTP-00001708 at 0004-0013; PHL-OTP-00001709. See also PHL-OTP-00000419; PHL-OTP-00000374; (ix) Incident 10: PHL-OTP-00001711 at 0006-0015; PHL-OTP-00001712; PHL-OTP-00001713 at 0002-0003, 0008-0009, 0011-0013; PHL-OTP-00001714 at 0006-0007; PHL-OTP-00001715 at 0005-0009. See also PHL-OTP-00000524; PHL-OTP-00000421; PHL-OTP-00000526. The Chamber notes that, at paragraph 75 of the Application, the Prosecution also alleges that the events described in Incident 1, as part of Count 3, would amount to the crime against humanity of torture pursuant to article 7(1)(f) of the Statute, because of 'the severe suffering which the rape and stabbings caused to the child victims'. However, noting that rape as a crime against humanity cannot be retained for the purpose of this warrant of arrest (see Section III.A.1. above), and that the 'stabbings' of the victims would already amount to a specific crime as such, i.e. the crime against humanity of murder under article 7(1)(a) of the Statute, which thus appears to be the most appropriate characterisation, the Chamber finds that qualifying those conducts also as torture is unwarranted.

enforcement, sometimes with the assistance of persons who were not part of the police, at various locations in the Philippines.[33]

15. In light of the above findings, the Chamber considers that there are reasonable grounds to believe that the elements of the crimes against humanity of murder pursuant to article 7(1)(a) of the Statute are met and that the crime was committed in the territory of the Philippines during the Relevant Period.

3. Mr Duterte's individual criminal responsibility

16. The Chamber finds that there are reasonable grounds to believe that, during the relevant period, Mr Duterte was the founder and head of the 'DDS', the Mayor of Davao City, and the President of the Philippines.[34]

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[33] Based on the list provided by the Prosecution under Counts 4 and 5 in the Application, the Chamber has retained as proven these incidents based on the following supporting material: (i) Incident 11: PHL-OTP-00015602 (translation PHL-OTP-00016418) at 0001-0002. See also PHL-OTP-00016180, para. 1; PHL-OTP-00016188, para. 2; PHL-OTP-00016191 at 0001-0002; PHL-OTP-00016192 at 0001-0002; PHL-OTP-00017510 at 0001; (ii) Incident 12: PHL-OTP-00016420 at 0011-0042, 0048-0053; PHL-OTP-00017506 at 0009-0038, 0042-0046. See also, PHL-OTP-00017072 at 0004-0018; PHL-OTP-00014890 at 0017-0021, 0025-0027; (iii) Incident 13: PHL-OTP-00016789, para. 2; PHL-OTP-0016-5326 at 5326. See also PHL-OTP-0002-0626, paras 182-190; (iv) Incident 14: PHL-OTP-00015487 at 0024-0033; PHL-OTP-00015488 at 0002-0028; PHL-OTP-00015489 at 0002-0004. See also PHL-OTP-0003-2523 at 2531; PHL-OTP-00015173; PHL-OTP-00015317; (v) Incident 15: PHL-OTP-00000537 at 0016; PHL-OTP-00000541 at 0004, 0013-0015; PHL-OTP-00000552 at 0003-0004; (vi) Incident 16: PHL-OTP-00000556 at 0008-0012; PHL-OTP-00000541 at 0004-0005; PHL-OTP-00000542 at 0002-0003. See also PHL-OTP-0006-8760 at 8773, paras 3, 5; PHL-OTP-00015255 at 0001-0002; (vii) Incident 17: PHL-OTP-00014895, paras 19-28. See also PHL-OTP-00017700, paras 49-50; PHL-OTP-00002236, paras 150-151; PHL-OTP-00017606 at 0001-0003; PHL-OTP-00017607 at 0001; PHL-OTP-00003426 at 0001-0002; PHL-OTP-00017636; (viii) Incident 18: PHL-OTP-00000547 at 0004-0010. See also PHL-OTP-0006-8760 at 8775, paras 2-3; (ix) Incident 19: PHL-OTP-00000552 at 0006-0014. See also PHL-OTP-0006-8760 at 8776, paras 2-3; (x) Incident 20: PHL-OTP-00017594, paras 1, 4. See also PHL-OTP-0002-0626, paras 488-489; PHL-OTP-00002236, paras 143-146; PHL-OTP-0003-3109 at 3113-3122, 3133, 3136; (xi) Incident 21: PHL-OTP-00000549 at 0003-0009. See also PHL-OTP-0006-8760 at 8777, paras 5-6; PHL-OTP-00000234 (transcript PHL-OTP-00015609, translation PHL-OTP-00015576); PHL-OTP-0001-4422 (transcript PHL-OTP-0001-4533, translation PHL-OTP-0007-0928); (xii) Incident 22: PHL-OTP-00000541 at 0005-0008; PHL-OTP-00000544 at 0005-0010; PHL-OTP-00000545 at 0004. See also PHL-OTP-0001-4420 (transcript PHL-OTP-0001-4531, translation PHL-OTP-0007-0925); PHL-OTP-00015260 at 0001; (xiii) Incident 23: PHL-OTP-00000554 at 0008-0014. See also PHL-OTP-00015262 (translation PHL-OTP-00015361 at 0001); (xiv) Incident 25: PHL-OTP-00000548 at 0002-0010; PHL-OTP-00000549 at 0002. See also PHL-OTP-00000591 at 0003-0005; (xv) Incident 26: PHL-OTP-00000554 at 0002-0008; (xvi) Incident 27: PHL-OTP-00000527 at 0018; PHL-OTP-00000541 at 0006; PHL-OTP-00000546 at 0011-0019. See also PHL-OTP-00000590 at 0009-0010; (xvii) Incident 28: PHL-OTP-00000544 at 0011-0017. See also PHL-OTP-0001-4426 (transcript PHL-OTP-0001-4537, translation PHL-OTP-0007-0934 at 0936, lines 2-6; (xviii) Incident 29: PHL-OTP-00000551 at 0010-0022; PHL-OTP-00000552 at 0019-0021; (xix) Incident 30: PHL-OTP-00000553 at 0009-0013. See also PHL-OTP-00017643 at 0001; PHL-OTP-00017645 at 0001; (xx) Incident 31: PHL-OTP-00000547 at 0013-0021. With regard to the events described in Incident 24, as part of Count 5, the Chamber notes that, while the adduced information appears to indicate that the material elements of the alleged crime are fulfilled, the material also shows that, because of the reason for the victim's killing, there is no nexus between the alleged crime and the attack and State policy as defined above (see Section III.A.1.), which entails that the allegations related to Incident 24 cannot be retained for the purpose of the present warrant of arrest (see PHL-OTP-00000541 at 0009; PHL-OTP-00000545 at 0010-0016; PHL-OTP-00000552 at 0017).

[34] PHL-OTP-0001-3619 at 3806; PHL-OTP-0001-2605 at 2630; PHL-OTP-0006-9247 at 9247-9248; PHL-OTP-0003-3291. See also para.17, footnote 35 below.

17. When Mr Duterte first became the Mayor of Davao City in 1998, he established the 'Lambada Boys', which acted as a 'death squad', composed of police officers and non-police hitmen, with a mission to kill criminals.[35] In the early 1990s, the Lambada Boys were renamed 'Davao Death Squad'.[36] As the founder and head of the DDS and, later, the head of the State of the Philippines, Mr Duterte, jointly with high-ranking government officials and members of the police force (the 'co-perpetrators') and through other persons,[37] agreed to 'neutralise'[38] individuals they identified as alleged criminals or individuals with criminal propensities, including but not limited to drug offenders,[39] initially in Davao[40] and subsequently throughout the country.[41] The word 'neutralise' was used and understood by those involved in the operations to mean to 'kill'.[42] This agreement had the aim of 'address[ing] the growing criminality' by 'kill[ing criminals] in a very covert and secret manner' without 'stick[ing] to the basic law enforcement or investigation', which had allegedly proven ineffective in eliminating or reducing the crimes.[43]

18. As shown below, the Chamber finds reasonable grounds to believe that, in his role as the head of the DDS and subsequently the President of the Philippines, Mr Duterte used the direct perpetrators of the crimes as tools to commit the crimes.

19. Concerning the DDS, Mr Duterte had *de facto* control over this unit, which was organised in a hierarchal manner, with the physical perpetrators at the bottom and Mr Duterte at the top of the reporting line.[44] His influence was further reinforced by the fact that, as the Mayor of the City, he had control over the police in the city with the power to direct the functions of police investigation, employ and deploy units or elements of the police, and choose the Davao

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[35] PHL-OTP-0006-9247 at 9247-9248; PHL-OTP-00000406 at 0003; PHL-OTP-00015401 at 0002-0012; PHL-OTP-00015402 at 0002-0006; PHL-OTP-00015501 at 0002-0003; PHL-OTP-0001-2605 at 2630; PHL-OTP-00001197.
[36] PHL-OTP-0006-9247 at 9247; PHL-OTP-00000406 at 0003; PHL-OTP-0001-2576 at 2591-2593.
[37] PHL-OTP-0001-2691 at 2711-2713; PHL-OTP-00015507 at 0008; PHL-OTP-00015508 at 0008; PHL-OTP-00015515 at 0017-0018; PHL-OTP-00000368 (translation PHL-OTP-00000409 at 0001).
[38] PHL-OTP-00015502 at 0005, line 125; PHL-OTP-00015427 at 0005; PHL-OTP-00015390 at 0011.
[39] PHL-OTP-0001-2682 at 2690; PHL-OTP-0001-2639 at 2652-2653; PHL-OTP-00015533 at 0004-0005, lines 98-13; PHL-OTP-00000547 at 0016; PHL-OTP-0002-0626, paras 302-312; PHL-OTP-00000147 at 0030; PHL-OTP-00000368 (translation PHL-OTP-00000409 at 0001).
[40] See para.17, footnote 35 above.
[41] PHL-OTP-0005-0259 at 0259-0260.
[42] PHL-OTP-00015390 at 0010-0011; PHL-OTP-0004-0006 at 0059-0060; PHL-OTP-00015502 at 0005; PHL-OTP-00015357.
[43] PHL-OTP-00015507 at 0005-0006.
[44] PHL-OTP-0001-3619 at 3806.

City Police Chief.[45] The members of the DDS automatically complied with their directions, even those that were merely implied.[46] Their fungibility is shown by the fact that the DDS killed some of the physical perpetrators who did not follow their orders.[47]

20. As the President of the Philippines, Mr Duterte was the head of state who had *de jure* control over all the executive departments, bureaus and offices, including the Philippine National Police ('PNP'),[48] the National Bureau of Investigation ('NBI')[49] and the Philippine Drug Enforcement Agency ('PDEA'),[50] and supervisory powers over local governments.[51] He had the power to appoint key law enforcement officials and create the National Network, which killed those identified as alleged criminals and shielded perpetrators from being held accountable for their crimes.[52] He also had the authority and the ability to suspend the operations temporarily and to reassign the operations to another government agency and has done so in response to public outcry.[53]

21. Mr Duterte also had *de facto* control over all agencies implementing the National Plan, including the PNP and PDEA. He appointed co-perpetrators from Davao City to high-level national positions and subordinates who had been involved in the killings in Davao to other parts of the country.[54] Those who committed the material elements of the crimes understood that they did not have the liberty to disobey orders from Mr Duterte to kill suspected criminals.[55] Mr Duterte also took advantage of direct perpetrators' issues and concerns, such as being suspected of drug-related offences, to ensure compliance with their superiors' order to utilise them as tools to commit the crimes.[56] Such low-level perpetrators' fungibility can be

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[45] As the Mayor of Davao City, Mr Duterte was the chief executive of the city government with the duty to 'exercise general supervision and control over all programs, projects, services, and activities of the municipal government' (PHL-OTP-00000259 at 0167-0172, Section 444). He also had formal 'operational supervision and control' over the police units in his jurisdiction, including 'the power to direct, superintend, and oversee the day-to-day functions of police investigation of crime', the 'employment and deployment of units or elements of the PNP' and the power to choose the Davao City Police Chief (PHL-OTP-0003-3321 at 3329, Section 51, as amended by PHL-OTP-0009-0143 at 0162-0163, Sections 62-63). See PHL-OTP-00015507 at 0008.
[46] PHL-OTP-00015403 at 0008-0009; PHL-OTP-00015510 at 0002; PHL-OTP-00015508 at 0008-0009.
[47] PHL-OTP-0001-2605 at 2630-2631; PHL-OTP-0001-2605 at 2630; PHL-OTP-00015445 at 0004; PHL-OTP-00015508 at 0008-0009.
[48] PHL-OTP-0003-3321 at 3221, Title.
[49] PHL-OTP-0009-0169 at 0172-0174, Sections 6 and 7.
[50] PHL-OTP-0017-4870 at 4904, 4909-4910, Sections 78 and 82.
[51] PHL-OTP-0005-2102 at 2125, Article VII, at 2140, Article X, Section 4.
[52] See e.g. PHL-OTP-00000216 at 0002-0003; PHL-OTP-0003-1438 at 1442; PHL-OTP-00015529 at 0005; PHL-OTP-0003-3283 (translation PHL-OTP-00001127 at 0002).
[53] PHL-OTP-00015496 (translation PHL-OTP-00015573 at 0006-0009); PHL-OTP-00015394 at 0071-0073; PHL-OTP-00001488 (translation PHL-OTP-00015388 at 0003).
[54] See para.20, footnote 52 above.
[55] See e.g. PHL-OTP-00015394 at 0071.
[56] PHL-OTP-00000552 at 0022-0024; PHL-OTP-00000540 at 0005-0015; PHL-OTP-00015392 at 0018-0019.

inferred from the fact that they were killed or prosecuted as scapegoats to ensure that the high-level perpetrators enjoy immunity.[57]

22. Furthermore, Mr Duterte made essential contributions to committing the alleged crimes in the following manner:

a. Designing and disseminating a project aiming at targeting alleged criminals,[58] including during his presidency campaign,[59] for the achievement of which the anti-illegal drugs project 'Double Barrel' was launched,[60] and subsequently endorsing this project;[61]

b. Establishing and overseeing the DDS[62] and providing it with firearms, ammunition, vehicles, safehouses and communications equipment to perpetrate the killings;[63]

c. Instructing and authorising violent acts to be committed against suspected criminals, including drug dealers and users;[64]

d. Appointing key personnel to positions that were crucial in executing the crimes;[65]

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[57] PHL-OTP-00000541 at 0008-0011; PHL-OTP-00000545 at 0010-0011; PHL-OTP-00000550 at 0010. See also Incident 24 (Application, para. 72(xi)); Article 18 Decision, para. 68.
[58] PHL-OTP-00015401 at 0003; PHL-OTP-00000354 (transcript PHL-OTP-00001679, translation PHL-OTP-00001682 at 0002); PHL-OTP-00000285 (transcript PHL-OTP-00000840, translation PHL-OTP-00000848 at 0002); PHL-OTP-0005-0259 at 0259; PHL-OTP-00000264 (translation PHL-OTP-00000335 at 0002, 0008).
[59] PHL-OTP-00000277 (transcript PHL-OTP-00001121, translation PHL-OTP-00001123 at 0006, 0007); PHL-OTP-00000303 (transcript PHL-OTP-00000846, translation PHL-OTP-00000854 at 0002). See also PHL-OTP-0003-1438 at 1442.
[60] PHL-OTP-0005-0259 at 0259.
[61] PHL-OTP-00000267 (translation PHL-OTP-00000336 at 0009-0010); PHL-OTP-0003-3213 (translation PHL-OTP-00015491 at 0001); PHL-OTP-00000271 (translation PHL-OTP-00000558 at 0008); PHL-OTP-0003-3283 (translation PHL-OTP-00001127 at 0005); PHL-OTP-0003-3224 (translation PHL-OTP-00015479 at 0016); PHL-OTP-0003-3261 (translation PHL-OTP-00015492 at 0016); PHL-OTP-0003-3800 (translation PHL-OTP-00015493 at 0004).
[62] See para.17, footnotes 35 and 36 above.
[63] PHL-OTP-00015525 at 0013; PHL-OTP-00015402 at 0009; PHL-OTP-00000406 at 0006; PHL-OTP-0003-0886 at 0941-0942; PHL-OTP-0002-0232.
[64] PHL-OTP-00015427 at 0005; PHL-OTP-00015401 at 0003; PHL-OTP-0006-9247 at 9252; PHL-OTP-00015432 at 0005; PHL-OTP-00015390 at 0011; PHL-OTP-00015501 at 0002-0003; PHL-OTP-0001-2605 at 2630; PHL-OTP-00015507 at 0008; PHL-OTP-0001-2691 at 2712; PHL-OTP-00001714 at 0002; PHL-OTP-00015508 at 0008; PHL-OTP-00015515 at 0017-0018; PHL-OTP-00020039 at 0045-0046.
[65] See paras 19-21.

e. Offering financial incentives and promotions to police officers and 'hitmen' to kill the suspects,[66] promising immunity,[67] and shielding them from investigation and prosecution;[68]

f. Making public statements authorising, condoning and promoting killings and dehumanising alleged criminals as the Mayor of Davao City[69] and the President of the Philippines,[70] including publicly naming suspects,[71] some of whom were subsequently killed in police operations;[72] and

g. Authorising state actors to take part in the anti-drugs campaign and revoking such authorisations.[73]

23. As the Head of the DDS and subsequently the President of the Philippines and having made the aforementioned significant contributions, Mr Duterte had the power to frustrate the commission of the alleged crime.

24. Based on the material before it and the aforementioned findings, the Chamber further finds reasonable grounds to believe that Mr Duterte acted with intent and knowledge within the meaning of article 30 of the Statute in relation to the crime found to have been committed. The Chamber infers his knowledge and intent from, *inter alia*, his alleged conduct of establishing the DDS and the National Network and controlling them, together with his co-perpetrators; instructing and supporting the city and nation-wide extrajudicial killings of

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[66] PHL-OTP-00015532 at 0006; PHL-OTP-00015220 (partial transcript PHL-OTP-00015692, translation PHL-OTP-00015723 at 0005-0006); PHL-OTP-00000354 (transcript PHL-OTP-00001679, translation PHL-OTP-00001682 at 0002); PHL-OTP-0006-9247 at 9248. See e.g. PHL-OTP-00001150; PHL-OTP-00001197, PHL-OTP-00000147 at 0010; PHL-OTP-00000147 at 0030, 0033; PHL-OTP-00015422 at 0004; PHL-OTP-0003-3199 (translation PHL-OTP-00015490 at 0008, 0012).

[67] PHL-OTP-00000271 (translation PHL-OTP-00000558 at 0008; PHL-OTP-0003-3283 (translation PHL-OTP-00001127 at 0005); PHL-OTP-00000267 (translation PHL-OTP-00000336 at 0009-0010); PHL-OTP-0003-3261 (translation PHL-OTP-00015492 at 0016); PHL-OTP-0003-3800 (translation PHL-OTP-00015493 at 0004); PHL-OTP-00000285 (transcript PHL-OTP-00000840, translation PHL-OTP-00000848 at 0002).

[68] PHL-OTP-0001-2605 at 2630-2632.

[69] PHL-OTP-00000285 (transcript PHL-OTP-00000840, translation PHL-OTP-00000848 at 0002); PHL-OTP-00000354 (transcript PHL-OTP-00001679, translation PHL-OTP-00001682 at 0002).

[70] PHL-OTP-00000339 (translation PHL-OTP-00000518 at 0003); PHL-OTP-0003-3291 at 3292; PHL-OTP-0003-3283 (translation PHL-OTP-00001127 at 0005); PHL-OTP-0003-3213 (translation PHL-OTP-00015491 at 0001); PHL-OTP-0003-3199 (translation PHL-OTP-00015490 at 0008, 0012); PHL-OTP-0001-3870 (translation PHL-OTP-0001-4350 at 4352); PHL-OTP-0003-3199 (translation PHL-OTP-00015490 at 0012); PHL-OTP-00015496 (translation PHL-OTP-00015573 at 0009); PHL-OTP-0001-3870 (translation PHL-OTP-0001-4350 at 4352).

[71] PHL-OTP-00001774 (transcript PHL-OTP-00016132, translation PHL-OTP-00016419 at 0003-0004).

[72] PHL-OTP-00017648 (translation PHL-OTP-00017690 at 0003). See also Incident 17 (Application, para. 71(iii)).

[73] PHL-OTP-00015496 (translation PHL-OTP-00015573 at 0006-0009); PHL-OTP-0005-0439; PHL-OTP-0003-2556; PHL-OTP-0003-3720; PHL-OTP-0003-0269.

alleged criminals; his public statements accepting responsibility for the killings committed pursuant to the State policy;[74] supplying necessary equipment to implement the attacks; assuming responsibility for the attacks; and promising the police officers and hitmen immunity from prosecution.

25. Taking into account the totality of the information before it, the Chamber finds reasonable grounds to believe that Mr Duterte is individually responsible for the crime against humanity of murder (article 7(1)(a) of the Statute) as an indirect co-perpetrator within the meaning of article 25(3)(a) of the Statute, committed during the Relevant Period.

B. Necessity of the arrest

26. The Prosecution submits that the arrest of Mr Duterte is necessary to ensure his appearance before the Court.[75] After evaluating the information submitted by the Prosecution, the Chamber accepts that 'there is no reasonable expectation that he would cooperate with a summons to appear issued by the Court'.[76] The Chamber observes that Mr Duterte, even though no longer the President of the Philippines, appears to continue to wield considerable power. Mindful of the resultant risk of interference with the investigations and the security of witnesses and victims, the Chamber is satisfied that the arrest of Mr Duterte is necessary within the meaning of article 58(1)(b)(i) of the Statute to ensure his appearance before the Court.

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[74] PHL-OTP-00000291 (transcript PHL-OTP-00000842, translation PHL-OTP-00000850 at 0002); PHL-OTP-00000294 (transcript PHL-OTP-00000843, translation PHL-OTP-00000851 at 0002); PHL-OTP-00000297 (transcript PHL-OTP-00000844, translation PHL-OTP-00000852 at 0002-0003).
[75] Application, para. 110.
[76] Application, para. 110.

FOR THESE REASONS, THE CHAMBER HEREBY

ISSUES a warrant of arrest for Rodrigo Roa Duterte, born on 28 March 1945, for his alleged criminal responsibility pursuant to article 25(3)(a) of the Statute for the crime against humanity of murder pursuant to article 7(1)(a) of the Statute, committed in the Republic of the Philippines during the Relevant Period, as set forth in this warrant of arrest;

DECIDES that the warrant of arrest, currently classified as secret, may be communicated, or its existence be revealed, and that the existence of the Prosecution's application for the present warrant may be mentioned to States, international organisations or competent persons if required for the execution of the warrant of arrest;

DECIDES that the Registrar shall, if at the indication of the Prosecution a situation arises warranting to do so: (i) prepare a request for cooperation seeking the arrest and surrender of Mr Duterte, and containing the information and documents required by articles 89(1) and 91 of the Statute and rule 187 of the Rules of Procedure and Evidence; or (ii) prepare a request for provisional arrest pursuant to article 92 of the Statute, containing the required information and documents; (iii) transmit, in consultation and coordination with the Prosecution, the request, in accordance with article 87 of the Statute, to cooperate with the Court for the purpose of executing the request for arrest and surrender of Mr Duterte; and (iv) submit a progress report on the status of the execution of the request for cooperation no later than 15 days after the request is made;

DIRECTS the Registrar to prepare and transmit to any relevant State, in consultation and coordination with the Prosecution, any request for transit pursuant to article 89(3) of the Statute; and

ORDERS the Prosecution to transmit to the Registry all information available to it that may be of assistance in the execution of the request for arrest and surrender as well as any information of relevance to assessing any risks to victims and witnesses associated with the transmission of the request for arrest and surrender;

ORDERS the Registrar to register the warrant of arrest in the record of the situation and, once the suspect has been arrested, to open a case record and transfer first the Prosecutor's Application from the situation record into the case record.

Done in English. A French translation will follow. The English version remains authoritative.

Judge Iulia Antoanella Motoc

Presiding Judge

Judge Reine Adélaïde Sophie Alapini-Gansou

Judge María del Socorro Flores Liera

Dated this Friday, 7 March 2025

At The Hague, The Netherlands

Cour Pénale Internationale

International Criminal Court

Name:

Certified Document

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